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**PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Gutierrez et al.

Examiner: Marcos Batista

Serial No: 09/412,122

Art Group: 2617; CN 9247

Filing Date: October 5, 1999

Docket No: RR2619

Title: A COMMON POWER CONTROL CHANNEL IN A CDMA SYSTEM AND A SYSTEM AND METHOD FOR USING SUCH A CHANNEL

Date: 1/20/2010

PRE-APPEAL BRIEF

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Application has been pending for OVER TEN YEARS. The outstanding Office Action mailed 10/19/2009 (the 12th Office Action) is the FIRST Final Office Action. Currently pending are six (6) independent claims. Of these, independent claims 18, 21, 34, and 49 are original and independent claims 33 and 46 have been slightly amended. Thus, almost all of the claims in this application as originally filed have been examined 12 times before the Office issued a Final Office Action. More than once, Applicant's Attorney has reached verbal agreement with the Office that a Notice of Allowance would result from concessions made. In each of these instances, the Office has withdrawn its agreement. Applicants respectfully request that the cited prior art fails to meet one or more essential elements needed for a prima facie rejection.

Claims 18-29, 33-42 and 46-57 are pending. Claims 18-25, 33-38, and 46-53 stand rejected. Claims 26-29, 39-42 and 54-57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all limitations of the base claim and any intervening claim.

Claims 18-21, 25, 33, 34, 38, 46-49 and 53 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tsunehara et al. (US 6307844 B1 “Tsunehara”) in view of Rezaiifar et al. (US637809 B1 “Rezaiifar”). Claims 22-24, 35-36, and 50-52 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tsunehara in view of Rezaiifar and further in view of Mucke et al. (US5548616 “Mucke”). Claim 37 is not addressed in the Office Action other than indicated pending.

Claim 18 claims a base station that supports a power control channel that carries power control bits and inhibit bits corresponding to **a plurality of reverse link common channels**, each reverse link common channel shared by a plurality of subscriber units. Each power control bit corresponds to a respective reverse link common channel and directs a respective subscriber unit to adjust its reverse link transmission power. Each of a plurality of inhibit bits corresponds to a reverse link common channel of the plurality of reverse link common channels and indicates whether a dedicated burst mode has been scheduled for the reverse link common channel.

In making this rejection the Office Action cites Tsunehara at col. 9, abstract, col. 1 lines 48-63, col. 7 lines 43-50 as disclosing a base station supporting a power control channel having “a plurality of power control bits, each power control bit corresponding to a reverse link common channel of the plurality of reverse link common channels and directing a respective subscriber unit to adjust its reverse link transmission power.” Such equivalence is incorrect. Tsunehara discloses a common power control channel, which is a forward link channel that includes power

control signals intended for a plurality of mobile terminals. Each of power control signal of Tsunehara's common power control channel corresponds to a **respectively allocated non-shared uplink traffic channel** (see FIG. 9 of Tsunehara and related text at col. 7, lines 43-49). Tsunehara fails to disclose a power control channel that carries power control bits corresponding to reverse link common channels as required by claim 18.

In making its rejection of claim 18, the Office Action cites Rezaiifar at fig. 3, col. 8, lines 57-67 and col. 9 lines 1-5 as disclosing "a plurality of inhibit bits, each of the plurality of inhibit bits corresponding to a reverse link common channel of the plurality of reverse link common channels and indicating whether a dedicated burst mode has been scheduled for the reverse link common channel." Such equivalence is incorrect. Rezaiifar discloses a control channel that includes an "indicator bit." As stated at col. 9, lines 2-3, the "indicator bit informs remote station 6 whenever there is information directed to remote station 6 on the fundamental channel in the next frame." Thus, the "indicator bit" of Rezaiifar notifies a remote station when the fundamental channel in the next frame will carry information directed thereto. The "indicator bit" of Rezaiifar is not equivalent to an "inhibit bit" of claim 18.

Thus, the rejection of claim 18 over the combination of Tsunehara and Rezaiifar fails to meet two elements of claim 18 and fails to render obvious claim 18 and claims 19-20 that depend there from.

Independent claim 21 includes, among other elements, the elements of: (1) a first power control/inhibit bit stream that corresponds to a first reverse link common channel; and (2) a second power control/inhibit bit stream that corresponds to a second reverse link common channel, the second power control/inhibit bit stream offset in relation to the first power control/inhibit bit stream. As stated above with reference to claim 18, Tsunehara fails to disclose

the transmission of power control bits for one or more reverse link common channels. Further, as stated above with reference to claim 18, Rezaiifar fails to disclose “inhibit bits” that correspond to reverse link common channels. For these reasons, the combination of Tsunehara and Rezaiifar fails to render obvious independent claim 21 and claim 25, which depends therefrom.

Independent claim 33 includes elements similar/same as those of claim 18 and, for the reasons cited above for claim 18, the combination of Tsunehara and Rezaiifar fails to render obvious independent claim 33.

Independent claim 34 includes elements similar/same to those of claim 21 and, for these same reasons cited above for claim 21 the combination of Tsunehara and Rezaiifar fails to render obvious independent claim 34 and claim 38 that depends from claim 34.

Independent claim 46 includes elements similar/same as those of claim 18 and, for the reasons cited above for claim 18, the combination of Tsunehara and Rezaiifar fails to render obvious independent claim 46, and claims 47-48 that depend from claim 46.

Independent claim 49 includes elements similar/same to those of claim 21 and, for these same reasons above for claim 21, the combination of Tsunehara and Rezaiifar fails to render obvious independent claim 49 and claim 53 that depends from claim 49.

For the reasons cited above, the combination of Tsunehara and Rezaiifar fail to render obvious independent claim 21 from which claims 22-24 depend, claim 34, from which claims 35-36 depend and claim 49, from which claims 50-52 depend. Mucke does not teach control bits for a reverse link common channel or for the transmission of inhibit bits and therefore fails to meet the shortcomings of Tsunehara and Rezaiifar.

Therefore, for at least these reasons the combination of Tsunehara, Rezaiifar, and Mucke

fails to render obvious claims 22, 23, 24, 35, 36, and 50-52.

Respectfully submitted,

Date: 01/20/10

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